

Executive Summary – Enforcement Matter – Case No. 51094

City of Wichita Falls

RN101611051

Docket No. 2015-1224-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Wichita Falls Northside Plant, located at 6285 Burkburnett Road at the intersection of State Highway 240 and Hemme-Bacon Switch Road north of Wichita Falls, Wichita County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 19, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,250

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$21,250

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major or Minor Source: Major

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51094

City of Wichita Falls

RN101611051

Docket No. 2015-1224-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 25, 2015

Date(s) of NOE(s): July 23, 2015

Violation Information

Failed to comply with permitted effluent limitations for pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010509005, Effluent Limitations and Monitoring Requirements No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Obtained an approved Industrial Pretreatment Program (“IUP”) and Sludge Discharge Control Plan (“SDCP”);
- b. The industrial user failed to comply with the IUP and the SDGP which contributed to the alleged violation;
- c. By January 21, 2011, issued Industrial User Permit No. SO6R to the identified industrial user;
- d. By May 30, 2015, emptied and cleaned the clarifiers and contact basin; reduced the pH with 5,000 pounds of citric acid in the oxidation ditch; reseeded the active oxidation ditch with sludge from a neighboring facility; removed and properly disposed of dead fish; and conducted laboratory testing; and
- e. By July 15, 2015, issued an Administrative Order to the industrial user.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Executive Summary – Enforcement Matter – Case No. 51094
City of Wichita Falls
RN101611051
Docket No. 2015-1224-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Melissa Castro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-0855; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Darron J. Leiker, City Manager, City of Wichita Falls, Post Office Box 1431, Wichita Falls, Texas 76307
The Honorable Glenn Barham, Mayor, City of Wichita Falls, Post Office Box 1431, Wichita Falls, Texas 76307
Respondent's Attorney: Brad B. Castleberry, Lloyd Gosselink Attorneys at Law, 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Attachment A
Docket Number: 2015-1224-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Wichita Falls
Penalty Amount:	Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250)
SEP Offset Amount:	Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Wichita County - Red River Basin, Seymour Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households (the “Project”). Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

City of Wichita Falls
Agreed Order - Attachment A

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

City of Wichita Falls
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ DATES	Assigned	27-Jul-2015	Screening	10-Aug-2015	EPA Due	
	PCW	8-Oct-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Wichita Falls
Reg. Ent. Ref. No.	RN101611051
Facility/Site Region	3-Abilene
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	51094	Order Type	Findings
Docket No.	2015-1224-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Jennifer Graves
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum		\$0	Maximum
		\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$25,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **10.0%** Enhancement **Subtotals 2, 3, & 7** \$2,500

Notes Enhancement for two months of self-reported effluent violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** -\$6,250

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$21
Estimated Cost of Compliance \$22,097

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$21,250

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$21,250

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$21,250

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$21,250

Screening Date 10-Aug-2015

Docket No. 2015-1224-MWD-E

PCW

Respondent City of Wichita Falls

Policy Revision 4 (April 2014)

Case ID No. 51094

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101611051

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 10-Aug-2015

Docket No. 2015-1224-MWD-E

PCW

Respondent City of Wichita Falls

Policy Revision 4 (April 2014)

Case ID No. 51094

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101611051

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010509005, Effluent Limitations and Monitoring Requirements No. 3

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on May 25, 2015. Specifically, on May 23, 2015, approximately 119,050 pounds of sodium hydroxide were released from an identified industrial user into the Facility upsetting the plant, causing a significant pH increase in the effluent to above 12 standard units, resulting in a fish kill of approximately 84 fish on May 26, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 1

7 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$25,000

One monthly event is recommended calculated from the date of the release (May 23, 2015) to the compliance date (May 30, 2015).

Good Faith Efforts to Comply

25.0%

Reduction \$6,250

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance by May 30, 2015.

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$21,250

This violation Final Assessed Penalty (adjusted for limits) \$21,250

Economic Benefit Worksheet

Respondent City of Wichita Falls
Case ID No. 51094
Reg. Ent. Reference No. RN101611051
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$22,097	25-May-2015	30-May-2015	0.01	\$1	\$20	\$21
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to empty and clean the clarifiers and contact basin; reduce the pH with 5,000 pounds of citric acid in the oxidation ditch; reseed the active oxidation ditch with sludge from a neighboring facility; remove and properly dispose of dead fish; and conduct laboratory testing. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$22,097

TOTAL

\$21



Compliance History Report

PENDING Compliance History Report for CN600129316, RN101611051, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600129316, City of Wichita Falls

Classification: SATISFACTORY

Rating: 0.15

Regulated Entity: RN101611051, NORTHSIDE PLANT

Classification: SATISFACTORY

Rating: 0.27

Complexity Points: 9

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 6285 BURKBURNETT RD AT THE INTERSECTION OF STATE HWY 240 AND HEMME-BACON SWITCH RD, N OF WICHITA FALLS, WICHITA CO, TX

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

WASTEWATER PERMIT WQ0010509005

WASTEWATER EPA ID TX0084557

WASTEWATER AUTHORIZATION R10509005

WASTEWATER LICENSING LICENSE WQ0010509005

STORMWATER PERMIT TXR05Y564

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: October 05, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 05, 2010 to October 05, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jennifer Graves

Phone: (956) 430-6023

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	October 21, 2010	(882655)
Item 2	November 18, 2010	(928441)
Item 3	December 17, 2010	(928442)
Item 4	February 17, 2011	(910251)
Item 5	March 15, 2011	(917465)
Item 6	March 31, 2011	(928440)
Item 7	May 17, 2011	(939160)

Item 8	May 31, 2011	(953826)
Item 9	June 20, 2011	(946577)
Item 10	August 31, 2011	(972502)
Item 11	September 20, 2011	(966491)
Item 12	September 27, 2011	(960433)
Item 13	November 14, 2011	(978647)
Item 14	December 19, 2011	(985471)
Item 15	February 14, 2012	(999102)
Item 16	March 12, 2012	(1004628)
Item 17	April 16, 2012	(1011206)
Item 18	May 17, 2012	(1017563)
Item 19	June 20, 2012	(1025358)
Item 20	July 13, 2012	(1032699)
Item 21	August 10, 2012	(1039125)
Item 22	August 27, 2012	(1081460)
Item 23	September 13, 2012	(1048077)
Item 24	October 12, 2012	(1066784)
Item 25	November 15, 2012	(1066785)
Item 26	December 14, 2012	(1066786)
Item 27	February 14, 2013	(1081459)
Item 28	March 08, 2013	(1090517)
Item 29	April 10, 2013	(1096868)
Item 30	May 15, 2013	(1107833)
Item 31	June 13, 2013	(1111465)
Item 32	July 12, 2013	(1118366)
Item 33	August 15, 2013	(1126156)
Item 34	September 18, 2013	(1130710)
Item 35	October 14, 2013	(1136474)
Item 36	November 14, 2013	(1141858)
Item 37	December 19, 2013	(1148323)
Item 38	February 18, 2014	(1161719)
Item 39	March 11, 2014	(1168343)
Item 40	April 18, 2014	(1175507)
Item 41	May 02, 2014	(1200349)
Item 42	May 16, 2014	(1181701)
Item 43	June 13, 2014	(1188598)
Item 44	September 03, 2014	(1200350)
Item 45	September 12, 2014	(1206960)
Item 46	October 13, 2014	(1213370)
Item 47	November 17, 2014	(1219625)
Item 48	December 15, 2014	(1225412)
Item 49	February 12, 2015	(1243425)
Item 50	March 23, 2015	(1249792)
Item 51	April 20, 2015	(1256674)
Item 52	May 15, 2015	(1263429)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/31/2015	(1270553)	CN600129316	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
2	Date:	06/30/2015	(1278079)	CN600129316	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			

Pending Compliance History Report for CN600129316, RN101611051, Rating Year 2015 which includes Compliance History (CH) components from October 05, 2010, through October 05, 2015.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WICHITA FALLS
RN101611051**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1224-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Wichita Falls ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 6285 Burkburnett Road at the intersection of State Highway 240 and Hemme-Bacon Switch Road, north of Wichita Falls, Wichita County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on May 25, 2015, TCEQ staff documented that the Respondent did not comply with permitted effluent limitations. Specifically, on May 23, 2015, approximately 119,050 pounds of sodium hydroxide were released from an identified industrial user into the Facility upsetting the plant, causing a significant pH increase in the effluent to above 12 standard units, resulting in a fish kill of approximately 84 fish on May 26, 2015.
4. The Respondent received notice of the violations on July 27, 2015.
5. The Executive Director recognizes that:
 - a. The Respondent has an approved Industrial Pretreatment Program ("IUP") and Slug Discharge Control Plan ("SDCP").
 - b. The industrial user failed to comply with the IUP and the SDCP which contributed to the alleged violation.
 - c. By January 21, 2011, the Respondent issued Industrial User Permit No. So6R to the identified industrial user.
 - d. By May 30, 2015, the Respondent emptied and cleaned the clarifiers and contact basin; reduced the pH with 5,000 pounds of citric acid in the oxidation ditch; reseeded the active oxidation ditch with sludge from a neighboring facility; removed and properly disposed of dead fish; and conducted laboratory testing.
 - e. By July 15, 2015, the Respondent issued an Administrative Order to the industrial user.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010509005, Effluent Limitations and Monitoring Requirements No. 3.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 7.053. Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Wichita Falls, Docket No. 2015-1224-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, Conclusions of Law, above, Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-1224-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Wichita Falls
Penalty Amount:	Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250)
SEP Offset Amount:	Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Wastewater Treatment Assistance</i>
Location of SEP:	Wichita County - Red River Basin, Seymour Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Wastewater Treatment Assistance* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to repair or replace failing or inadequately designed on-site wastewater treatment systems such as septic systems for low-income households (the “Project”). Low-income households fall at or below the 80 percent median income level for households in the county where they live.

The Third-Party Administrator shall ensure that all repairs, replacements, and installations are performed in compliance with local, state, and federal rules relating to on-site wastewater treatment systems. The Third-Party Administrator shall ensure that only properly licensed contractors are utilized for repair of existing on-site wastewater treatment systems and installation of new on-site wastewater treatment systems.

City of Wichita Falls
Agreed Order - Attachment A

An on-site wastewater treatment system is a system of treatment devices or disposal facilities that (1) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments; (2) is located on the site where the sewage is produced; and (3) produces not more than 5,000 gallons of waste a day. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a benefit to the environment by preventing the release of sewage into the environment and by protecting human health. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through sewage in drinking water sources, direct contact from water in lawns or streets, and inhalation and skin absorption.

Sewage overflows may cause damage to the environment. Sewage overflows may reach rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

City of Wichita Falls
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.